IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1825 OF 2004

Duragayya Shantayya Phiske ...Petitioner
vs.
State of Maharashtra ...Respondent

Ms D.M.Shah (Advocate appointed)
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 24,2005

P.C.:

1. The challenge in this Petition received through jail is to the order dated 24th March 2004 by which the application for furlough leave made by the Petitioner is rejected. The application is rejected on the ground that the Petitioner has not offered new surety and that the police report is adverse to the Petitioner. The last ground is that the original place of residence of the Petitioner is in the State of Andhra Pradesh.

2. In view of the order dated 9th December 2003 passed by this Court in Writ Petition No.846 of 2003, the Petitioner cannot give surety of his wife and he will have to offer surety of some other person. Perusal of the police report dated 10th March 2004 shows that there is no danger from the Petitioner to the relatives of the deceased. It is, however, stated that except for wife of the Petitioner he has no relative at Ichalkaranji and his original place of residence is in Andhra Pradesh. Considering the provisions of The

Prisons (Bombay Furlough and Parole) Rules, 1959 and in particular Rule 4 thereof, the application could not have been rejected on the ground that the original place of residence of the Petitioner is outside Maharashtra. Otherwise there is nothing adverse in the police report.

3. Hence the order dated 24th March 2004 will have to be quashed and set aside. If the Petitioner offers surety of any person other than his wife, the application made by the Petitioner will have to be considered favourably.

4. Hence I pass the following order :

i) Impugned order dated 24th March 2004 is quashed and set aside.

ii) If the Petitioner offers surety of any person other than his wife, the application dated 13th February 2004 made by the Petitioner for furlough leave shall be favourably considered by the concerned authority in the light of this order as well as order dated 9th December 2003 passed by this Court in Criminal Writ Petition No.846 of 2003.

iii) The Application shall be reconsidered within a period of four weeks from the date on surety of any person other than his wife is offered by the Petitioner.

iv) Copy of this order be forwarded to the Petitioner.

JUDGE